

OFFICE OF CANNABIS MANAGEMENT PREVIEWS UPDATED PROPOSED ADULT-USE CANNABIS REGULATIONS

*Regulations To Be Considered by Cannabis Control Board during May 11
Board Meeting*

*Revised Regulations Integrate Thousands of Public Comments In
Strengthened Framework for New York's Safe, Equitable, Consumer-
Driven Market*

*If Approved by Cannabis Control Board, Revised Regulations Enter 45-
day Public Comment Period*

The Office of Cannabis Management (OCM) is sharing a preview of the updated proposed adult-use cannabis program regulations to be considered by the Cannabis Control Board (CCB) during its May 11th Board Meeting. The proposed regulations were initially approved by the CCB on November 21 and then available for a 60-day public comment period. The preview focuses on revisions to the regulations since the initial draft. [Head here](#) to see the Office's preview of the previous draft regulations.

These regulations are designed to promote public health and safety and establish a consumer-driven, equitable, adult-use cannabis market to build upon the proposed regulations advanced in fall of 2022, with revisions based on over 3,500 individual comments received from the public.

The regulations provide the framework for the adult-use program in New York by clarifying adult-use market architecture, defining the activities allowed under each license type, setting out application criteria and much more.

This preview includes revisions to the proposed regulations, such as:

1. Provisional Licenses & Visibility into the Application Process
2. Registered Organization Expansion into Adult-Use Market
3. Realigned Supply License Tier Ownership Provisions
4. Updates to Goods and Services Revenues Limits
5. Adjustments to Microbusiness and Cultivator Licenses Authorizations
6. Social Consumption Allowances for Adult-Use Dispensaries
7. Updates to Environmental and Energy Usage Rules
8. Receivership Rules to Protect Licensees

Provisional Licenses & Visibility into Application Process

The revised regulations formalize the provisional license and the process to receive one. Applicants without a pre-determined location seeking a license would be provided a provisional license after submitting initial information regarding their business and the applicant's eligibility. Provisional licensing will lower up-front costs for applicants and allow them a form of "pre-approval" by the State as they seek a location for their cannabis business, raise funds and capital, and build their teams.

These revised regulations also outline the general application process, allowing prospective applicants to prepare required materials before applications windows formally open.

Registered Organization Expansion into Adult-Use Market

The revised regulations outline how registered organizations, New York's current medical cannabis providers, will transition into the adult-use cannabis market which authorization is outlined in the Cannabis Law. New York's 10 registered organizations are each currently allowed to operate up to 8 medical dispensaries. The Cannabis Law allows registered organizations participating in the adult-use market to co-locate up to 3 of these dispensaries for both medical and adult-use sales. This proposal includes a timed transition that would allow these registered organizations to open their:

- first co-located adult-use and medical dispensary after December 29, 2023; and
- second and third co-located store after June 29, 2024.

As registered organizations transition to the adult-use market as vertically integrated business (having cultivation, processing, distribution, and retail) they are referred to as Registered Organization Dispensing or ROD. In accordance with the Cannabis Law ROD licensees must pay fees to support New York's Social & Economic Equity plan. The fee structure for this transition is as follows:

- \$5M due at the time of licensure; and the remainder paid by the earlier of:
 - the opening of the ROD's second co-located dispensary; or
 - in \$5 million installments paid within 30 days of each \$100 million in revenue generated by the ROD, up to \$300 million;

Realigned Supply License Tier Ownership Provisions

Under the revised regulations, True Parties of Interest in a registered organization that is licensed under Article 4, are now allowed to be True Parties of Interest (via passive investors) in supply-side businesses (Cultivation, Cooperatives, Processors, Distributors, and Microbusinesses). The regulations still prohibit True Parties of Interest in New York's retail businesses from holding ownership stakes in supply-side businesses outside of New York which is a foundation of the two-tier market structure set out in the Cannabis Law.

Updates to True Party of Interest Investment Rules

These revised regulations increase the annual compensation arrangement threshold to be considered a True Party of Interest in an adult-use cannabis license or applicant from the greatest of 10% of gross revenue; 50% of net revenues; or \$100,000, to the greatest of 10% of gross revenue; 50% of net revenues; or \$250,000. This extended cap is in response to significant feedback from the public and OCM licensees who indicated desire for more flexibility for certain contracted specialized services.

Adjustments to Microbusiness and Cultivator Licenses

These revised regulations will allow microbusiness licensees to purchase up to 500 pounds of cannabis biomass per year, and additional biomass in certain business-threatening circumstances (e.g. crop failure). This will allow these size-limited licensees to have protections against an unforeseen issue with their cannabis harvests.

These revised regulations also added the option for conditional cultivators (former hemp farmers supplying the adult-use market now) to transition to becoming cooperatives or microbusiness licensees at the end of conditional period.

On-Site Consumption Allowances for Adult-Use Dispensaries

The revised regulations create multiple pathways for New York's licensed adult-use cannabis businesses and local governments to allow New Yorkers 21 years of age and older to consume cannabis in designated licensed areas.

The revised regulations create pathways to allow consumption to occur at the licensed premises of retail dispensaries, in addition to on-site consumption licenses. The revised draft regulations also include the ability for local governments to identify cannabis consumption areas within their jurisdictions by exempting certain areas from the Clean Indoor Air Act.

These revised regulations allow a retail dispensary licensee, such as a CAURD licensee, to identify a distinct area on their premises where people can use the cannabis products they have purchased at the dispensary. This area, called a Limited Retail Consumption Facility, must be inside the same building as the dispensary, or on an adjacent parcel. Entry must be restricted to only people 21 years of age and older. Other license types, such as the microbusiness license and on-site consumption license, may have additional privileges in the future when locating and operating a consumption facility.

Updates to Environment and Energy Usage Rules

The revised regulations maintained the existing energy and environment provisions but created longer time frames for small cultivators to come into compliance as a result of feedback from

public comments. The energy and environmental provisions in the regulations are now more fully aligned with New York State's nation-leading climate goals.

Receivership Rules to Protect Licensees

The revised regulations now include a section on receivership for unexpected license transition. Since cannabis is not yet federally legal, cannabis entrepreneurs do not have access to federal bankruptcy courts. This creates opportunities for licensees to have options similar to bankruptcy protections.

If the revised regulations are approved by the CCB, they will be filed in the New York State Register and opened for a 45-day public comment period. These revised regulations will be made available to the public via the OCM website at least 24 hours before the May 11th Cannabis Control Board meeting.